Privileged and Confidential Settlement Demand

Of Property Pursuant to the [APPLICABLE STATE] Rules of Civil Procedure

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[DATE]

[CLAIMS ADJUSTER NAME]

Sent via [FAX / EMAIL / CERTIFIED MAIL]:
[DELIVERY ADDRESS OR NUMBER]

[INSURANCE COMPANY NAME]

Re:
Our Client: **[CLIENT FULL NAME]**
Claim Number: **[CLAIM NUMBER]**
Date of Loss: **[DATE OF LOSS]**

Dear **[ADJUSTER LAST NAME OR TITLE]**,

This is our final attempt to settle the above-referenced diminished value claim. This firm represents **[CLIENT FULL NAME]** with respect to their property damage claim against your insured. The purpose of this letter is to attempt to settle this claim without the necessity of incurring any additional expenses, including litigation expenses. This letter is a privileged and confidential offer to compromise pursuant to **[APPLICABLE EVIDENCE / SETTLEMENT RULE (e.g., TRE 408)]** and is intended solely for settlement purposes.

LEGAL BASIS FOR DIMINISHED VALUE

Under Texas law, a claimant whose property has been damaged but not totally destroyed may recover the difference in the market value of the property immediately before the injury and the market value immediately after repairs are completed. Tex. Farm Bureau Mut. Ins. Co. v. Wilde, 385 S.W.3d 733, 738 (Tex. 2012). This post-repair diminution in value is not duplicative of repair costs and constitutes a separate, recoverable head of damages. Wolf v. Starr, 617 S.W.3d 898, 909 (Tex. App.--Houston [14th Dist.] 2020, no pet.); Blackstock v. Dudley, 12 S.W.3d 131, 135 (Tex. App.--Austin 1999, no pet.).

The Texas Supreme Court has expressly recognized that "damages for diminution in value and damages for cost of repairs are not duplicative if the diminution is calculated based on a comparison of the original value of the property and the property's post-repair value." Tex. Farm Bureau Mut. Ins. Co. v. Wilde, 385 S.W.3d 733, 738 (Tex. 2012). This rule ensures that claimants are made whole when their property suffers a permanent stigma or loss of marketability even after competent repairs.

In Houston Unlimited, Inc. v. Mel Acres Ranch, the Texas Supreme Court acknowledged the rationale underlying diminished value recovery, explaining that "a repaired vehicle may command a smaller sum in the market than a like vehicle that has never been damaged, and that awarding [the owner] diminished value in addition to repair would go further to make him whole." Hous. Unlimited, Inc. Metal Processing v. Mel Acres Ranch, 443 S.W.3d 820, 826 (Tex. 2014). The Court observed that Texas courts of appeals have consistently "recognized a claimant's right to recover both repair costs and the diminution of value remaining after the repairs were completed." Id.; see also Am. Mfrs. Mut. Ins. Co. v. Schaefer, 124 S.W.3d 154, 158 (Tex. 2003) (the Texas Supreme Court recognized that vehicle owners may assert claims for diminished value even if repairs are completed, and that such claims reflect the reality that repaired vehicles suffer a market-value reduction based on their accident history).

Texas courts have long recognized that even when a vehicle is properly repaired, its market value may be permanently reduced due to its accident and repair history. Central Freight Lines, Inc. v. Naztec, Inc., 790 S.W.2d 733, 735 (Tex. App.--El Paso 1990, writ denied). The measure of damages for property that is economically feasible to repair includes both the cost of repair and, where applicable, the permanent reduction in value attributable to the vehicle's diminished marketability post-repair. Tex. Farm Bureau Mut. Ins. Co. v. Wilde, 385 S.W.3d at 738.

Liability for the underlying collision is undisputed. The existence and amount of diminished value damages have been substantiated by a qualified, independent appraisal. Your company received all items, statements, and forms reasonably required to substantiate this claim on **[Date All Documentation Received]**. Despite the passage of **[Number of Days]** days since receipt of proof of loss, your company has failed to acknowledge, investigate, accept, or pay this claim in accordance with the requirements of the Texas Insurance Code.

CALCULATION OF DIMINISHED VALUE DAMAGES

As a result of the collision, my client's **[YEAR MAKE MODEL / TRIM]** was badly damaged. The vehicle has now been in a major accident and has lost market value as a result. My client's diminished value claim is as follows:

Description	Amount
Diminished Value - see attached expert appraisal report from MY-DV-PAL (or other qualified appraiser).	**[APPRAISED DV AMOUNT]**
Total Diminished Value	**[APPRAISED DV AMOUNT]**

** In an effort to settle my client's diminished value claim, even when considering you have not presented any evidence refuting the expert's detailed report, my client will settle the diminished value claim for **[SETTLEMENT OFFER AMOUNT]**.

THEREFORE, OUR FINAL OFFER TO SETTLE IS [SETTLEMENT OFFER AMOUNT].

If you have any questions or comments, please feel free to call my office.

Best regards,

[ATTORNEY FULL NAME, Esq.]
[ATTORNEY TITLE (e.g., Attorney at Law)]
[LAW FIRM NAME]

Enclosure: Diminished value appraisal / expert report. This sample layout is provided by **MY-DV-PAL** *(mydvpal.com) to illustrate a common demand structure. Always customize with your firm's letterhead, facts, and governing law. Texas case citations are sample authority only.*